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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,185	10/14/2003	Paul Q. Escudero	212/464	3783

7590

09/18/2006

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EXAMINER

DEMILLE, DANTON D

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

8

Office Action Summary	Application No.	Applicant(s)	
	10/686,185	ESCUERO ET AL.	
	Examiner	Art Unit	
	Danton DeMille	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/17/05</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to as failing to provide an adequate written description of the invention in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains to make and use the same. The specification set forth a spline 66 that allows for removable attachment of the belt to the drive spool however, the drawings do not show the drive spool or such relationship to know how the spline is removably attached to the drive spool.

The specification also sets forth that the belt is removably connected to the drive spool within the platform however, it is not clear how this connection is made because the cover plate is between the spline 66 and the drive spool within the platform. As shown in figure 5 the spline 66 and that portion of the belt is inside the overall belt cartridge with the cover plate 44 between the spline and where the spool would be. Figure 2 shows the cover plate 44 engaged on the top surface of the platform. Therefore in figure 5 the platform would lie underneath or below the cover plate 44 with the belt and spline located above the cover plate. How is the belt and spline 66 removably attached to the drive spool if the cover plate is covering up the drive spool?

Claims 1-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification, as noted above, in such a way as to reasonably convey to one

skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/686188 in view of Bystrom et al. (US 6,090,056). While the copending claims may not state whether or not the belt is releasably attached to the drive spool Bystrom teaches that the belt is attached to the drive spool by passing the belt through a slot. It would have been obvious to one of ordinary skill in the art to modify the copending claims to include a slot in the drive spool as taught by Bystrom to releasably attach the belt to the drive spool to allow for easy replacement or repair.

This is a provisional obviousness-type double patenting rejection.

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No.

10/686186. It would have been obvious to one of ordinary skill in the art to modify the copending claims to leave out the details to the spline.

This is a provisional obviousness-type double patenting rejection.

Claims 2-24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/686186 in view of Bystrom et al. (US 6,090,056). Bystrom teaches transition sections near 3L, 3R between the pull straps 4L & 4R and the load distribution section 3. It would have been obvious to one of ordinary skill in the art to modify the copending claims to include a transition section as taught by Bystrom to transition between the smaller pull straps and the larger load distribution section.

This is a provisional obviousness-type double patenting rejection.

Claims 1-24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/686184 in view of Bystrom et al. (US 6,090,056). It would have been obvious to one of ordinary skill in the art to modify the copending claims to include pull straps 4L, 4R, transition sections 3L, 3R and load distribution sections 3 of the belt as taught by Bystrom to shape the belt to have a narrow point of attachment and distribute the forces evenly.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

Claims 1-4, 6, 7, 15, 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bystrom et al. (US 6,090,056).

Figure 7 shows a belt cartridge 26 with a cover plate 27 and a belt. Figure 4 shows the slot for releasably attaching the belt to the drive spool. The cover plate 26 is releasably attached to the platform 28. The belt includes pull straps 4L, 4R, transition sections 3L, 3R and load distribution sections 3. Since the load distribution sections are attached to the ends of the pull straps then when the pull straps are separated the load distribution sections of the belt are also detached from each other.

Claim Rejections - 35 USC § 103

Claims 9, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bystrom et al. (US 6,090,056).

Bystrom teaches the fasteners 4L, 4R can be other conventional fastening means. It would have been obvious to one of ordinary skill in the art to modify Bystrom to use other obvious equivalent fastening means such as hook and loop fastening means.

Regarding claim 22, Since the belt cartridge 26 can be removably attached from the platform, inherently a like second belt cartridge can attached to replace the first belt cartridge should the first one become damaged. Such would have been an obvious provision.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bystrom et al. (US 6,090,056) in view of Meister.

It would have been obvious to one of ordinary skill in the art to modify Bystrom to include a compression pad as taught by Meister to protect the patient.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bystrom et al. (US 6,090,056) in view of Kuroshaki et al.

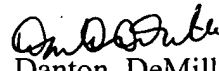
Kuroshaki teaches the outer most layer 52 is formed of nylon pile including fibers finely corrugated in the longitudinal direction, column 9, lines 35-38. It would have been obvious to one of ordinary skill in the art to modify Bystrom to use nylon with unidirectional fibers as taught by Kuroshaki to restrict the elasticity in the longitudinal direction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson, can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

14 September 2006


Danton DeMille
Primary Examiner
Art Unit 3764